

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/552,252	LEMAUX ET AL.	
	Examiner	Art Unit	
	Georgia L. Helmer	1638	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communications of 11 August 2004 and 31 January 2005.
2. ☒ The allowed claim(s) is/are 1-8,10-13 and 15-24.
3. ☒ The drawings filed on 18 April 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>31 Jan 2005</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                     |
|   | 9. <input type="checkbox"/> Other _____   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Otis Littlefield on 31 January 2005.

2. The application has been amended as follows:

In the Claims:

Cancel claims 9, 14 and 25-42.

Claim 1: A method for producing a transformed monocot plant, comprising:

- (a) providing a monocot plant embryo;
- (b) introducing a nucleic acid into a monocot plant cell from the monocot plant embryo to produce a transformed plant cell;
- (c) culturing the transformed plant cell under dim light of approximately 10 to 30  $\mu$ E on an incubation medium comprising an auxin and a cytokinin for about 5 to 20 days to produce a transformed plant tissue that is green, shiny, nodular and compact as compared to untransformed monocot plant callus tissue; and
- (d) culturing the transformed plant tissue on a regeneration medium to produce the transformed monocot plant.

Claim 2: The method of claim 1 wherein the auxin is selected from the group consisting of 2,4-dichlorophenoxyacetic acid, dicamba, naphthaleneacetic acid, indoleacetic acid, picloram, 2,4,5-trichlorophenoxyacetic acid and mixtures thereof.

Claim 3: The method of claim 1 wherein the cytokinin is selected from the group consisting of 6-benzylaminopurine, zeatin, zeatin riboside, kinetin, 2iP, and mixtures thereof.

Claim 4: The method of claim 1 wherein the auxin is at a concentration of about 0.1 mg/L to about 5 mg/L.

Claim 5: The method of claim 1 wherein the cytokinin is at a concentration of about 0.01 mg/L to about 5 mg/L.

Claim 6: The method of claim 1 wherein the incubation medium further comprises copper at a concentration of about 0.1  $\mu$ M to about 50  $\mu$ M.

Claim 7: The method of claim 1 wherein the incubation medium further comprises a carbon source.

Claim 8: The method of claim 1, wherein the auxin is at a concentration of about 0.1 mg/L to about 5 mg/L and the cytokinin is at a concentration of about 0.1 mg/L to about 5 mg/L; and the incubation medium further comprises copper at a concentration of about 0.1  $\mu$ M to about 50  $\mu$ M, and maltose.

Claim 10: The method of claim 1 further comprising selecting for the transformed plant cell by incubating the plant cell on a growth medium comprising a selective agent.

Claim 11: The method of claim 1 wherein the step of introducing the nucleic acid comprises bombardment of the plant cell with microprojectiles coated with the nucleic acid.

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Claim 12: The method of claim 11 wherein bombardment is performed at below 1300 psi.

Claim 13: The method of claim 12 wherein bombardment is performed at about 900 to about 1100 psi.

Claim 15: The method of claim 1 wherein the monocot plant is selected from the group consisting of barley, oat, wheat, maize, rice, sorghum, orchardgrass, tall fescue, red fescue, creeping bentgrass and Kentucky bluegrass.

Claim 16: The method of claim 15 wherein the barley is selected from the group consisting of Golden Promise, Galena, Harrington, Morex, Moravian III, and Salome.

Claim 17: The method of claim 15 wherein the wheat is selected from the group consisting of Bobwhite, Anza, Yecora Rojo and Karl.

Claim 18: The method of claim 15 wherein the maize is H99 or B73.

Claim 19: The method of claim 15 wherein the rice is Taipei 309.

Claim 20: The method of claim 15 wherein the orchardgrass is Rapido.

Claim 21: The method of claim 15 wherein the tall fescue is Ky 31.

Claim 22: The method of claim 15 wherein the red fescue is 43F-93.

Claim 23: The method of claim 15 wherein the creeping bentgrass is Putter.

Claim 24: The method of claim 15 wherein the Kentucky bluegrass is Kenblue.


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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 571-272-0796 can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Georgia L. Helmer, PhD  
Patent Examiner  
Art Unit 1638  
10 February 2005

 2/14/05  
PHUONG T. BUI  
PRIMARY EXAMINER